

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

**IN RE: NATIONAL PRESCRIPTION  
OPIATE LITIGATION**

**THIS DOCUMENT RELATES TO:**

***All Cases***

**MDL NO. 2804**

**Case No. 17-MD-2804**

**Judge Dan Aaron Polster**

**MOTION FOR LITIGATION HOLD NOTICE EXTENSION**

The Amending Plaintiffs,<sup>1</sup> by and through undersigned counsel, jointly move this Court to extend to **September 30, 2024**, the deadline by which the PEC is required to submit the notice required by the Court's July 10, 2024 order. In that order, this Court instructed the PEC to file by September 9, 2024, "a single notice for all [plaintiffs seeking leave to amend] indicating whether a litigation hold was implemented<sup>2</sup> in each case, and if so, when." Doc. # 5517. Since then, the PEC has surveyed MDL counsel and filed motions for leave to amend on behalf of more than 2,000 plaintiffs. In light of the large

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<sup>1</sup> The Amending Plaintiffs are the plaintiffs that filed motions for leave to amend on July 29 and 30, 2024, pursuant to docket no. 5455. On August 1, 2024, the PEC filed corrected motions deleting one plaintiff and adding 3 that were inadvertently omitted. The PEC also proposed that it provide an updated list of Amending Plaintiffs by September 1, 2024, deleting any plaintiffs that have elected *not* to proceed with amendment. The PEC has since requested a similar short extension of that deadline, to September 15, 2024.

<sup>2</sup> The Court has since clarified the question of whether a plaintiff has "implemented" a litigation hold. For the purposes of this inquiry, the Amending Plaintiffs understand "implemented" to mean that the plaintiff has sent a litigation hold notice out to the individuals/agencies intended to retain documents related to the lawsuit. July 23, 2024 CMC Tr. at 39:3-21, 40:3-10, 42:10-16. No further inquiry is required to satisfy the Court's July 10, 2024 order.

number of plaintiffs from whom information must be gathered, and the complicating factor of obtaining such information during the summer months, good cause exists for this limited extension to September 30, 2024, to enable the PEC to compile the information sought.

Nine of the 14 defendants subject to these motions have indicated they do *not* oppose the extension requested,<sup>3</sup> including Optum and ESI, against whom the largest number of plaintiffs have moved (over 2,000). The remaining defendants have not responded to the PEC's inquiry at this time. However, as the defendants noted in their recent request to extend their deadline to respond to the Amending Plaintiffs' motions for leave from 60 days to 127 days, "it would promote judicial economy to extend the deadlines for all . . . defendant families by the same amount." Doc. # 5590. Consequently, the PEC requests that the deadline for providing the litigation hold notice be extended to September 30, 2024.

Dated: August 20, 2024

Respectfully submitted,

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<sup>3</sup> On August 19, 2024, the PEC inquired whether defendants would not oppose the PEC's request for an extension of both the deadline to provide an updated list of Amending Plaintiffs and the litigation hold notice deadline. See Exhibit A attached. Eight defendants (Albertsons, Aurolife/Aurobindo, Costco Wholesale, Discount Drug Mart, Express Scripts, KVK-Tech, Lupin Pharmaceuticals, and OptumRx) responded that they did not oppose the request for an extension of either deadline. Tris Pharmaceutical joined in this agreement on August 20, 2024. See Exhibit B.

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### **CERTIFICATE OF SERVICE**

I hereby certify that on August 20, 2024, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system. Copies will be served upon counsel of record by, and may be obtained through, the Court CM/ECF system.

/s/Peter H. Weinberger  
Peter H. Weinberger